

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3416 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed : YES  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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SUR AJITBHAI SAVAILAL

Versus

ASSISTANT COLLECTOR OF VADODARA  
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Appearance:

MR JD AJMERA for Petitioners  
MR VM PANCHOLI for Respondent No. 1  
MS KRUTI VORA for KH BAXI for Respondent No. 2  
None present for respondent no.3  
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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 24/03/2000

ORAL JUDGEMENT

1. Heard learned counsel for the parties. The challenge has been made by the petitioners in this petition under Article 226 of the Constitution to the order of the Assistant Collector - respondent no.1 under

Section 23 A of the Rent Act dated 24/4/1989. Under this order, the prayer made by the petitioner for direction to grant them independent separate electric connection in the suit premises came to be rejected. The petitioners claim themselves to be the tenant in the suit premises of the respondents no.2 and 3. That there exist disputes between the parties regarding tenancy rights of the petitioners in the suit premises is not in dispute. It is a fact that in the rent suit filed by the petitioners for declaration of their tenancy right in the disputed premises, the Civil Court has granted interim injunction in their favour. That suit is pending as per the learned counsel for the petitioners. In view of this fact naturally the respondents no. 2 and 3 will not permit the petitioners to enjoy this amenity of electricity. This is one of the way to harass the tenants who are in occupation of the disputed premises. The electricity is not a luxury. It is a bare necessity of life. Even where the tenancy rights of the petitioners is in the dispute, I fail to see any justification in the objections of the respondents no.2 and 3 and in the approach of the respondent no.1 not to permit the petitioners to have separate and independent electricity connection. So long as petitioners continue in possession of the suit premises, they are entitled to enjoy this electricity facility. By permitting the separate independent electricity connection in the disputed premises to the petitioners by authority, no right title or interest whatsoever is created. This is a misconception of law that grant of separate and independent electricity connection or water connection to tenant or occupier any right better than what they hold is likely to be created in the disputed premises. The question whether the petitioners are tenant in the disputed premises or not is to be decided by the Civil Court. Undisputedly the petitioners are in possession of the suit premises and so long as they are not lawfully dispossess therefrom, they have all the right to enjoy this bare necessity of the life by providing separate electricity connection in the premises to them. It will result in avoiding many more other between the parties. In the result, this Special Civil Application succeeds and same is allowed. The order of the respondent no.1 at Annexure-H dated 25.4.1989 is quashed and set aside and the application filed by the petitioners under Section 23 A of the Rent Act is allowed and permission is granted to them to have independent separate electricity connection in the disputed premises. Rule is made absolute accordingly with no order as to costs.

(S.K.Keshote,J)

(Vipul)